

Calendar No. 302

106TH CONGRESS }
1st Session }

SENATE

{ REPORT
106-172

DICKINSON DAM BASCULE GATES SETTLEMENT ACT OF 1999

OCTOBER 6, 1999.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

REPORT

[To accompany S. 769]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 769) to provide a final settlement on certain debt owed by the city of Dickinson, North Dakota, for construction of the bascule gates on the Dickinson Dam, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 4, lines 11 through 20, strike subsection 4(c) in its entirety and insert the following:

“(c) COSTS.—(1) The Secretary shall enter into an agreement with the City to allocate responsibilities for operation and maintenance costs of the bascule gates as provided in this subsection.

“(2) The City shall be responsible for operation and maintenance costs of the bascule gates, up to a maximum annual cost of \$15,000. The Secretary shall be responsible for all other costs.”.

PURPOSE OF THE MEASURE

The purpose of S. 769 is to provide a final settlement on certain debt owed by the city of Dickinson, North Dakota, for the construction of the bascule gates on the Dickinson Dam.

BACKGROUND AND NEED

Title II of Public Law 94-228 authorized the Secretary of the Interior to modify the spillway of Dickinson Dam to increase storage capacity. The city of Dickinson was to repay the portion of costs allocable to municipal and industrial water supplies. Installation of a bascule gate was selected as the least cost alternative. The Bu-

reau of Reclamation estimated that installing a fixed crest would cost twice as much as the gates. The city believes that a fixed crest would have cost less than the bascule gates. In addition, the city believes the gates were an experiment and not appropriate to a cold climate, thus costs increased due to overruns, poor design and lengthened construction time for modifications to prevent future excessive ice loading.

Construction on the gates was completed in 1982. In 1987, the city's repayment obligation was reduced from \$3.2 million to \$1.625 million to offset cost increases from the original estimates. The \$1.625 million debt is to be repaid over a 40-year term at 7.21 percent. The annual payment is \$124,872.51.

In 1991, the city began receiving its municipal and industrial water from the Southwest Water Authority, which receives higher quality water from the Southwest Pipeline Project, and no longer requires the additional water provided by the bascule gates for its municipal water supply.

LEGISLATIVE HISTORY

S. 769 was introduced by Senators Conrad and Dorgan on April 13, 1999. A hearing was held in the Water and Power Subcommittee on May 27, 1999. At the business meeting on September 22, 1999, the Committee on Energy and Natural Resources ordered S. 769, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 22, 1999, by a unanimous vote of a quorum present, recommends that the Senate pass S. 769, if amended as described herein.

COMMITTEE AMENDMENTS

During the consideration of S. 769, the Committee adopted an amendment that would require the city to pay annual operations and maintenance costs for the bascule gates, up to a maximum of \$15,000. Annual O&M costs beyond \$15,000 would be the responsibility of the Federal government. O&M costs have averaged about \$9,000 over the past 10 years.

SUMMARY OF THE MEASURE

As ordered reported, S. 769 requires the Secretary of the Interior to accept \$300,000 in lieu of existing repayment obligations for construction of the bascule gates on the Dickinson Dam. The measure also defines responsibility for operations and maintenance costs.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 1, 1999.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 769, the Dickinson Dam Bascule Settlement Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are John R. Righter (for federal costs) and Marjorie Miller (for the state and local impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 769—Dickinson Dam Bascule Gates Settlement Act of 1999

CBO estimates that enacting S. 769 would increase direct spending by a total of about \$600,000 over the 2000–2004 period, but that the change in direct spending would be less than \$500,000 in each year. Because the bill would affect direct spending, pay-as-you-go procedures would apply. In addition, subject to the availability of appropriated funds, CBO estimates that implementing S. 769 would increase costs for the Bureau of Reclamation by a negligible amount over the 2000–2004 period. S. 769 contains no inter-governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Because this bill would significantly reduce the amount owed to the federal government by the city of Dickinson, North Dakota, the city would benefit from its enactment.

S. 769 would direct the Secretary of the Interior to accept a one-time payment of \$300,000, less certain payments, from the city of Dickinson as settlement of the city's remaining obligations to the Bureau of Reclamation for constructing bascule gates on the Dickinson Dam. (Bascule gates are used to modify the amount of water that a lake retains.) In addition, the bill would divide the annual costs to operate and maintain the gates between the city and the Bureau of Reclamation; the city would pay the first \$15,000 and the bureau would pay the rest. The federal government would retain title to the gates and dam.

According to the Bureau of Reclamation, the city of Dickinson owes the federal government approximately \$1.5 million for the bascule gates, which the bureau constructed during 1980 and 1981. With interest, that amount will grow to about \$3.75 million by 2027, the final year of a contract that requires the city to pay the federal government about \$125,000 each year.

We estimate that enacting S. 769 would result in the federal government forgoing the collection of debt service payments from the city. For fiscal years 2000 through 2004, CBO estimates the amount of forgone receipts would total about \$760,000. In addition to the regular payments scheduled for each of the next five years,

this total includes about \$135,000 for the 1998 payment (including interest and penalties), which the city still owes. In exchange for forgiving the city's entire debt, the bill would require that Dickinson pay the federal government an amount equal to \$300,000 less any payments made by it after June 1, 1998. According to the bureau, the city made a payment of about \$140,000 in January 1999; thus, the bill would require that Dickinson make an additional payment of only about \$160,000. In total, CBO estimates that enacting S. 769 would increase direct spending by about \$600,000 over the 2000–2004 period because we estimate the city would make a one-time payment of \$160,000 to the Bureau in 2000 in exchange for relief from debt service payments of \$760,000 over the next five years.

In addition, S. 769 would require the city to pay for up to \$15,000 of the annual costs to operate and maintain the bascule gates. The city currently pays the Bureau of Reclamation for all such costs. According to the bureau, a payment of up to \$15,000 would cover its costs in most years. In years where such costs exceed the \$15,000 ceiling, the bureau would have to use its appropriated funds. Thus, subject to the availability of appropriated funds, CBO estimates that capping the city's payment would increase costs for the bureau by a negligible amount over the 2000–2004 period.

The CBO staff contacts are John R. Righter (for federal costs) and Marjorie Miller (for the state and local impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 769. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 769, as ordered reported.

EXECUTIVE COMMUNICATIONS

On, April 21, 1999, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 769. These reports had not been received at the time the report on S. 769 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF PATRICIA J. BENEKE, ASSISTANT SECRETARY
FOR WATER AND SCIENCE, DEPARTMENT OF THE INTERIOR

My name is Patricia J. Beneke, I am Assistant Secretary for Water and Science within the U.S. Department of the Interior. The Bureau of Reclamation is one of the bureaus that I oversee. I am pleased to be here today to provide the Administration's views on S. 769 to provide a final settlement on certain debt owed by the city of Dickinson, North Dakota, for construction of the Bascule gate on the Dickinson Dam.

S. 769, the Dickinson Dam Bascule Gate Settlement Act of 1999, directs the Secretary of the Interior to accept a one-time payment of \$300,000 in lieu of the existing repayment obligations of the city and reallocates all operation and maintenance cost of the Dam and Bascule gate for flood control, recreation, and fish and wildlife purposes. The Administration opposes S. 769 as drafted.

A part of the Pick Sloan Missouri River Basin Project, the Dickinson Unit is a multipurpose unit which provides storage for irrigation and municipal water, flood control, fish and wildlife conservation and recreational opportunities. Dickinson Dam is located on the Heart River about two miles west of Dickinson which is the county seat of Stark County and the primary city in the region.

In 1983, modifications were completed to the spillway of Dickinson Dam to increase storage capacity for the use by the city of Dickinson. Installation of the Bascule gate was selected as the least cost alternative for the spillway modification and the City was to repay all costs allocated to municipal and industrial water (M&I) supplies. In December 1987, P.L. 100-202 reduced the City's Bascule gate repayment obligation from approximately \$3.2 million to \$1.625 million. This reduction was intended to offset the cost increases from the original estimate due primarily to inflation and interest during construction.

The Administration has several concerns with S. 769.

1. *Capital Cost*—The legislation, as currently drafted, would forgive the City of Dickinson of their remaining obligation of approximately \$1.5 million plus interest they contractually committed to pay in contract number 9-07-60-wo384. The one-time payment of \$300,000 does not represent a fair or equitable payment to satisfy their obligation and would result in a loss to the U.S. Treasury.

2. *Reallocation*—The proposed reallocation of the operation and maintenance (O&M) costs of Dickinson Dam to flood control, recreation, and fish and wildlife would effectively result in the United States assuming the Project's entire O&M responsibility. This is not an equitable solution since the benefits of the facility are almost exclusively local. Also, it imposes an additional financial obligation, presumably perpetual in nature and which currently varies from \$1,500 to \$24,000 per year, on Reclamation at a time when its budget is declining.

3. *Local Benefits*—S. 769 proposes to forgive the City's debt and reallocates costs to the Federal government for a project whose beneficiaries are entirely local. The City continues to use project water to irrigate a golf course and dilute sewage lagoon releases. They also receive benefits from recreational use and fish and wildlife resources on the reservoir.

4. *Reduction in Payment*—In addition to the one-time payment of \$300,000, the legislation proposes to further reduce this amount by subtracting any payments made by the City's since June 2, 1998. This could result in a one-time payment of less than \$15,000, furthering the loss to the Treasury.

5. *Clarification of Findings*—Several statements in Sec. 2 of S. 769 need clarification. First, item (1) states that the gate was constructed to provide additional water supply and for flood control and other benefits. However, the sole purpose of the Bascule gate is for municipal and industrial water supply as reflected in the 100% O&M allocation for the gates to M&I.

Second, Item (5) states that the City has repaid more than \$1,200,000 to the United States for the gate construction. This statement is inaccurate. First, there was the debt reduction from \$3.2 million to \$1.625 million included in P.L. 100-202. Second, the \$1,200,000 repaid by the City accounts primarily for interest payments required under P.L. 100-202 leaving approximately \$1.5 million of the original \$1.625 million remaining to be repaid.

Mr. Chairman, this legislation does not provide the United States an equitable return for construction costs of the Bascule gate or for the continued benefits the City receives from the Reservoir. However, we would be willing to work with the City, the North Dakota congressional delegation and this Committee to identify alternatives.

That concludes my testimony, I am pleased to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 769, as ordered reported.